IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.7120 OF 2005

Jayashree Chiman Toke. ...Petitioner.
Vs.
The Chairman, Swami Vivekanand Shikshan
Sanstha & Ors. ....Respondents.

....

WITH
WRIT PETITION NO.7119 OF 2005

Mr. Mandar Limaye for the Petitioner.
Mr.V. P. Malvankar, AGP for Respondent Nos.3 to 5.
Ms. Manjiri Parsnis i/b. Mr.G. S. Godbole for Applicant in C. A. St. No.856 of 2006.

.....

CORAM : F.I. REBELLO, J. AND
DR.D.Y.CHANDRACHUD, J.

January 18, 2006.

P.C.

The Learned AGP waives notice for Respondent Nos.3, 4 and 5. In view of the order to be passed, notice to Respondent Nos. 1 and 2 dispensed with.

2. Writ Petition No.7119 of 2005 not on Board. By consent, the matter is also taken on Board and heard forthwith.

3. Civil Application Stamp No.856 of 2006 has been taken out by the Applicants in Writ Petition No.7120 of 2005. That application is not on Board, but by consent taken on Board and heard forthwith.

4. The Petitioner in Writ Petition No.7120 of 2005 was Respondent No.5 in Appeal No.4 of 2004 before the School Tribunal. The Petitioner in Writ Petition No.7119 of 2005 was Respondent No.4 in Appeal No.4 of 2004 before the School Tribunal. That was an appeal preferred by one Shobha Shankarrao Satpute against her termination. By an order dated 20th April 2005, the order of termination has been set aside and the Respondent-management has been directed to reinstate the appellant in the said appeal. While so disposing of the appeal, the position of the Petitioners in the present two petitions who were arrayed as Respondent Nos.4 and 5 was protected and the Learned Tribunal was pleased to observe that allowing the appeal would not affect the services of Respondent Nos.4 and 5.

5. Similarly, another appeal had been preferred by one Miss Kalpana Popat Aher wherein both the present Petitioners are

also the Respondents and similar observations as in Appeal No.4 of 2004 were also made in Appeal No.5 of 2004.

6. The grievance of the Petitioners is that approval has been refused only on the ground that appeal is pending before the School Tribunal, when in fact, the appeal has been disposed of by an order dated 20th April 2005.

7. The grievance of the Applicants is that their services were terminated and though the School Tribunal allowed their appeals, yet they have not been reinstated. It is pointed out at the Bar that the management has filed a petition before this Court. It is pending before the Learned Single Judge. However, it appears that there is no stay granted in favour of the management against the order of reinstatement of the applicants therein.

8. Considering the controversy, in our opinion, the ends of justice will be met, if the following directions are issued :

Respondent No.3, Education Officer, to hear the Petitioners in both the petitions, the Applicants who have

intervened by Civil Application St.No. 856 of 2006 and the management and after considering the contentions including the contentions of the Applicants herein that they are senior to the Petitioners, to decide the controversy and accordingly issue appropriate orders in terms of the provisions of the M.E. P.S. Act and the Rules framed thereunder. The entire exercise to be completed within three months from a copy of this order being served on Respondent No.3. It is made clear that if any order is passed in favour of the Applicant-Intervenors in Writ Petition No.7120 of 2005 that would be subject to the order passed in the pending Writ Petition before the Learned Single Judge of this Court.

9. The Petitions are disposed of. No order as to costs.

(F.I. Rebello, J.)

(Dr. D.Y. Chandrachud, J.)